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Human rights situations that require the Council's attention

Albania, Andorra,* Australia,* Austria,* Belgium, Bulgaria,* Canada,* Croatia,* Cyprus,* Denmark,* Finland,* Georgia, Greece,* Ireland,* Latvia, Liechtenstein,* Luxembourg,* Malta,* Mexico,* Montenegro,* Netherlands, Norway,* Paraguay, Poland,* Romania,* Slovenia, Spain,* Sweden,* Switzerland, the former Yugoslav Republic of Macedonia,* United Kingdom of Great Britain and Northern Ireland, United States of America: draft resolution

34/... Situation of human rights in South Sudan

The Human Rights Council,

Guided by the purposes and principles of the Charter of the United Nations,

Guided also by the Universal Declaration of Human Rights, the African Charter on Human and Peoples' Rights and relevant human rights treaties,

Emphasizing that States have the primary responsibility for the promotion and protection of human rights,

Recalling the twenty-sixth special session of the Human Rights Council, including Council resolution S-26/1 of 14 December 2016 on the situation of human rights in South Sudan, and Council resolution 31/20 of 23 March 2016, in which the Council established the Commission on Human Rights in South Sudan, and all other previous Human Rights Council and Security Council resolutions and President's statements on South Sudan,

Deeply alarmed by the statements made at the twenty-sixth special session of the Human Rights Council, including the statement of the Commission on Human Rights in South Sudan that the conflict and violence in South Sudan could destabilize the entire region, the statement of the Special Adviser of the Secretary-General on the Prevention of Genocide that there is an ongoing, serious threat of renewed violence and a strong and imminent risk of violence escalating along ethnic lines, with the potential for genocide, in South Sudan, and the statement of the United Nations High Commissioner for Human Rights that killings, sexual violence, ill-treatment, abductions, forcible recruitment and the

* State not a member of the Human Rights Council.

looting and destruction of homes and villages are taking place on a massive scale across many parts of the country,

Welcoming that the Government of South Sudan has committed to cooperating with the Office of the High Commissioner, United Nations special procedures, the universal periodic review and the Commission on Human Rights in South Sudan in the fulfilment of its mandate,

Noting the initial steps taken by the Government of South Sudan towards a National Dialogue, and strongly encouraging a transparent and inclusive political process as a means towards lasting stability in South Sudan,

Noting with appreciation the report of the Commission on Human Rights in South Sudan[1] and the recommendations therein, including those on ending impunity and ensuring accountability, and deeply concerned about the findings of warning signs and indicators, including the dehumanization of others through hate speech, economic volatility and instability, starvation, the killing of and attacks against civilians, forced displacement and the burning of villages in South Sudan,

Welcoming the joint report of the Office of the High Commissioner and the United Nations Mission in South Sudan of January 2017 and the recommendations contained therein, and deeply concerned about the finding that there are serious and ongoing gross human rights violations and abuses and violations of international humanitarian law, including those that may amount to war crimes and crimes against humanity, that were perpetrated by all parties to the conflict, including the direct targeting of civilians along ethnic lines and the extreme violence against women and children,

Deeply concerned by the allegations of human rights violations and abuses in the reports of the Secretary-General and the interim report of the Panel of Experts on South Sudan established pursuant to Security Council resolution 2206 (2015),[2]

Noting with grave concern the conclusions of the report of the African Union Commission of Inquiry on South Sudan of 15 October 2014,

Recalling all relevant decisions and communiqués of the African Union and the Intergovernmental Authority on Development, including the joint declaration of the African Union, the Intergovernmental Authority on Development and the United Nations of 29 January 2017, which reaffirmed their continued and collective commitment in the search for lasting peace, security and stability in South Sudan, and the African Union Peace and Security Council communiqué of 26 September 2015, which, inter alia, reaffirmed the commitment of the African Union to combating impunity, reiterated condemnation of the violence and abuses committed by armed actors in South Sudan, and agreed to the establishment of an independent hybrid court pursuant to the Agreement on the Resolution of the Conflict in the Republic of South Sudan, and in this regard encouraging its speedy establishment,

Concerned by ethnically motivated incitement to hatred and violence by all sides, reports of targeting of civilians based on ethnicity, and sexual and gender-based violence becoming increasingly widespread,

Calling upon all parties to fully implement the 2015 peace agreement and to conclude a permanent ceasefire,

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[1] A/HRC/34/63.

[2] S/2016/963.

Deeply alarmed at the escalation of violence in the Equatoria region, which has resulted in increased flows of refugees into neighbouring countries and renewed violence in the former States of Unity and Upper Nile,

Deeply alarmed that more than 16,800 structures have been destroyed in the southern Equatoria region since September 2016, in an indication of violence committed in or around civilian areas,

Expressing grave concern about the 20 February 2017 declaration of famine in parts of the former Unity State, as well as mass displacements within South Sudan and outside the country, noting that the humanitarian crisis is caused primarily by conflict, commending humanitarian agencies for their continued assistance to the affected populations, and recalling the need for all parties to the conflict to allow and facilitate, pursuant to United Nations guiding principles of humanitarian assistance, including humanity, neutrality, impartiality and independence, the full, safe and unhindered access of relief personnel, equipment and supplies and the timely delivery of humanitarian assistance to all those in need, in particular to internally displaced persons and refugees,

Condemning in the strongest terms all attacks against humanitarian personnel and facilities that have resulted in the death of at least 70 humanitarian personnel since December 2013, including the attack on the Terrain compound on 11 July 2016 and attacks against medical workers and facilities, as well as the continued obstruction and extortion of humanitarian assistance convoys and the wholesale looting and destruction of humanitarian compounds in the Greater Pibor Administrative Area, Unity and Upper Nile States and Juba,

Emphasizing the inviolability of United Nations premises, and underlining that attacks against civilians and United Nations premises may constitute war crimes,

Expressing grave concern at the attack on the protection-of-civilians site of the United Nations Mission in South Sudan in Malakal on 17 and 18 February 2016, and for the civilians who sought safety in the protection-of-civilians site that have been attacked, killed, traumatized and displaced, and that serious damage was caused to the entire site, including to medical clinics and schools, which were burned down and destroyed, and at sexual and gender-based violence against women and girls exiting protection-of-civilians sites throughout the country,

Recalling that the Government of South Sudan has the primary responsibility to protect all populations in the country from genocide, war crimes, ethnic cleansing and crimes against humanity,

Gravely concerned about ongoing reports of increased levels of sexual and gender-based violence committed against women and girls and instances of conflict-related rape and gang rape, coupled with beatings and abductions, including in July and August 2016 during the outbreak of fighting in Juba,

Expressing grave concern at the burning, looting, and wholesale destruction of villages, the targeting of civilians and health-care facilities, and the attacks on places of worship,

Condemning in the strongest terms the violence that broke out between the Government and the South Sudan People's Liberation Movement/Army in Opposition in early July 2016, and urging all parties to pursue the path of a peaceful resolution to the existing conflict,

Recognizing the importance of providing timely assistance and protection to survivors of sexual and gender-based violence, including sexual and reproductive health, psychosocial, legal and livelihood support and other multi-sectoral services for survivors of

sexual and gender-based violence, including working with communities to reintegrate those affected by sexual and gender-based violence, and taking into account the specific needs of persons with disabilities,

Emphasizing the importance of good governance and the rule of law as key elements of conflict prevention, peacekeeping, conflict resolution and peacebuilding,

Expressing concern that the situation in South Sudan continues to be characterized by impunity,

Expressing particular concern at the severe reduction of democratic space in South Sudan, including through the heightened restrictions on the freedom of expression and the freedoms of peaceful assembly and association, attacks on journalists and media workers, and the limitations on the operations of civil society, human rights defenders and the media, and stressing the responsibility of the Government of South Sudan to address these issues in accordance with the Agreement on the Resolution of the Conflict in the Republic of South Sudan and in the interest of fostering an open and inclusive political environment,

Recognizing that transitional justice mechanisms are important elements in a national reconciliation process and in implementing the Agreement, including by addressing accountability, reparations, truth-seeking and guarantees of non-recurrence,

Underlining the role that domestic, regional and international accountability mechanisms can play in assisting South Sudan to ensure accountability,

1. *Condemns* the ongoing violations and abuses of human rights and violations of international humanitarian law in South Sudan, including those involving targeted killings of civilians, ethnically targeted violence, rape and other forms of sexual and gender-based violence, the widespread recruitment and use of children, arbitrary arrests and detention, alleged torture, arbitrary denial of humanitarian access and attacks on schools, places of worship, hospitals and United Nations and associated peacekeeping personnel, by all parties, also condemns the harassment and violence directed at civil society, human rights defenders, humanitarian personnel and journalists, and emphasizes that those responsible for violations and abuses of human rights and violations of international humanitarian law must be held accountable;

2. *Condemns in the strongest possible terms* the widespread sexual and gender-based violence, including rape and gang rape, which can be used as a weapon of war, and the impunity for such violence, by all armed groups;

3. *Demands* that all actors put a halt to all violations and abuses of human rights and all violations of international humanitarian law, and strongly calls upon the Government of South Sudan to ensure the protection and promotion of human rights and fundamental freedoms;

4. *Notes with appreciation* the report of the Commission on Human Rights in South Sudan,[1] and the recommendations contained therein;

5. *Recognizes* the important role of the Joint Monitoring and Evaluation Commission, chaired by former President Festus Mogae, to support the Agreement on the Resolution of the Conflict in the Republic of South Sudan and its ceasefire provisions, and urges all parties and international partners to engage constructively with the Commission and other bodies created by the Agreement;

6. *Also recognizes* the important role played by the African Union High Representatives for South Sudan in support of an inclusive process for national dialogue and agreement implementation, and urges all parties and international partners to constructively engage with the African Union Commission, the African Union High Representative for South Sudan, as well as other bodies created by the Agreement;

7. *Stresses* that perpetrators of violations of international humanitarian law and violations and abuses of human rights, including any that amount to war crimes or crimes against humanity, should be held accountable;

8. *Calls upon* the Government of South Sudan to investigate all violations and abuses of human rights and violations of international humanitarian law and to hold those responsible to account, while affording fair trial protections to the accused and supporting victims and protecting potential witnesses before, during and after legal proceedings;

9. *Urges* the Government of South Sudan to take steps immediately to protect the rights to freedom of expression, peaceful assembly and association in accordance with its international human rights obligations, and to, among other things, ensure that members of civil society organizations and the media can operate freely and without intimidation;

10. *Strongly urges* all parties to end and prevent violations and abuses of human rights committed against children, and calls upon all parties to end immediately the unlawful recruitment of children and to release all children that have been unlawfully recruited to date;

11. *Recognizes* the important role that women, including South Sudanese women, play in building peace, and calls for the protection and promotion of the rights of women, their empowerment and participation in peacebuilding, conflict resolution and post-conflict processes, in accordance with Security Council resolution 1325 (2000) of 31 October 2000 and subsequent resolutions on women, peace and security, including Council resolution 2242 (2015) of 13 October 2015;

12. *Emphasizes* the need for the Government of South Sudan to ensure the participation of women during all stages and in all structures envisaged in the Agreement on the Resolution of the Conflict in the Republic of South Sudan;

13. *Supports* the establishment of transitional justice institutions, and urges the speedy establishment of an independent hybrid court by the African Union Commission to investigate and prosecute those responsible for violations or abuses of international human rights and international humanitarian law, where applicable, and/or applicable South Sudanese law, and calls upon all parties to cooperate fully in the implementation of the Agreement on the Resolution of the Conflict in the Republic of South Sudan, including chapter V thereof;

14. *Notes with appreciation* that the Government of South Sudan has cooperated with the Office of the United Nations High Commissioner for Human Rights, United Nations special procedures and the Commission on Human Rights in South Sudan in the fulfilment of its mandate, including by authorizing travel to and within the country and providing meetings and relevant information, and calls upon the Government to continue to cooperate fully and constructively with and to provide unhindered access to them, as well as to the United Nations Mission in South Sudan and the Regional Protection Force, once it is stood up, and regional, subregional and international mechanisms on the ground;

15. *Reaffirms* the importance of the mandate of the Commission on Human Rights in South Sudan, with continued emphasis on the need to establish the facts and circumstances of alleged violations and abuses of human rights with a view to ensure that those responsible are held to account, and welcomes the recommendations made by the Commission on ending impunity and ensuring accountability;

16. *Decides* to extend the mandate of the Commission on Human Rights in South Sudan, composed of three members, for a period of one year, renewable as authorized by the Human Rights Council, with the following mandate:

(*a*) To monitor and report on the situation of human rights in South Sudan, and to make recommendations to prevent further deterioration of the situation with a view to its improvement;

(*b*) To determine and report the facts and circumstances of, collect and preserve evidence of, and clarify responsibility for alleged gross violations and abuses of human rights and related crimes, including sexual and gender-based violence and ethnic violence, with a view to ending impunity and providing accountability, and to make such information available also to all transitional justice mechanisms, including those to be established pursuant to chapter V of the Agreement on the Resolution of the Conflict in the Republic of South Sudan, including the hybrid court for South Sudan, once established in cooperation with the African Union;

(*c*) To report on the factual basis for transitional justice and reconciliation;

(*d*) To provide guidance on transitional justice, including accountability and reconciliation and healing, as appropriate, and – once the Government of South Sudan commits to cooperating with the African Union on establishing the hybrid court for South Sudan – to make recommendations on technical assistance to the Government to support accountability, reconciliation and healing;

(*e*) To engage with the Government of South Sudan, international and regional mechanisms, including the United Nations, the United Nations Mission in South Sudan, the African Union, including by building upon the work of its Commission of Inquiry on South Sudan and its African Commission on Human and Peoples' Rights, the Intergovernmental Authority on Development, including the Partners Forum, the Chair of the Joint Monitoring and Evaluation Commission and civil society, with a view to providing support to national, regional and international efforts to promote accountability for human rights violations and abuses;

(*f*) To make recommendations on technical assistance and capacity-building, as appropriate, including to law enforcement institutions, on the promotion and protection of human rights and fundamental freedoms, including on addressing sexual and gender-based violence;

17. *Reiterates* its request to the Commission on Human Rights in South Sudan, in response to the twenty-sixth special session of the Human Rights Council, and as soon as feasibly possible, working with the wider United Nations system, to suggest priority recommendations for the Government of South Sudan to consider how to end sexual and gender-based violence, urges relevant United Nations actors to assist in such implementation as appropriate, and urges the Government to appoint a special representative on sexual and gender-based violence;

18. *Requests* the Office of the High Commissioner to provide the full administrative, technical and logistical support needed to enable the Commission on Human Rights in South Sudan to carry out its mandate;

19. *Reiterates* its request that representatives of the Office of the High Commissioner, the African Union, the Joint Monitoring and Evaluation Commission, the African Commission on Human and Peoples' Rights and other stakeholders, as appropriate, be invited to discuss the situation of human rights in South Sudan and the steps taken by the Government of South Sudan to ensure accountability for human rights violations and abuses in an enhanced interactive dialogue at the thirty-sixth session of the Human Rights Council;

20. *Requests* the Commission on Human Rights in South Sudan to participate in the enhanced interactive dialogue mentioned in paragraph 19 above, and to present a

comprehensive written report, in an interactive dialogue, to the Human Rights Council at its thirty-seventh session;

21. *Requests* that the report of the Commission on Human Rights in South Sudan be submitted to the Human Rights Council and then shared with the African Union and all relevant organs of the United Nations;

22. *Decide*s to remain seized of the matter.